

Significant Legislative Rule Analysis

WAC (246-840-125)

Retired Active Status for Registered and Licensed Practical Nurses

September 2013

There are currently 3,062 licensed active nurses aged 70 and older, and 1,011 with inactive status. Many of these nurses will be unable to meet the new continuing competency requirements for active status and will have to let their licenses expire. Barriers for these nurses to continue providing health care include the high license fees and the number of continuing competency hours to maintain an active license. There are also approximately 16,000 nurses aged between 60 and 70 years who will soon retire from full-time nursing. Many retired nurses continue to serve their communities through volunteering as parish or school nurses. If these nursing groups are unable to meet the active status requirements, they will no longer be able to practice in those capacities. This goes directly against the Department of Health's strategic plan to improve Washington's access to safe, quality, and affordable health care.

The proposed new rule allows nurses to practice on an intermittent or emergency basis with a retired active status license. The retired active status license has a reduced fee and reduced number of practice hours for continuing competency. The proposed rule allows nurses to continue practicing on an infrequent basis, yet retain competency through continuing education and practice hours. This increases the availability of health care providers to Washington State patients.

Section 1. What is the scope of the rule?

The proposed rule establishes a new license status of retired active for registered nurses and licensed practical nurses. The Nursing Care Quality Assurance Commission (Nursing Commission) proposes this rule because it recognized the need to have competent and knowledgeable nurses whose licenses can be reactivated quickly in a time of emergency. There are also many nurses who are unable to meet the required experience hours for an active license, but who would like to continue serving their communities as parish or school nurses or volunteering in clinics.

To have an active license, nurses are required to complete and document 531 practicing hours and 45 hours of continuing education over a three-year period. Under the retired active license status, they must still complete 45 hours of continuing education, but only 96 hours of active practice. This reduced requirement allows nurses to hold a retired active license to work as a nurse in intermittent or emergency circumstances. However, with a retired active status registered nurses and licensed practical nurses cannot work full-time, and there are limits on work environments. A retired active status license allows retired nurses to continue providing services to the community.

Section 2. What are the general goals and specific objectives of the proposed rule's authorizing statute?

The general goal of RCW 18.130.250 is to ensure the people of Washington State have greater access to healthcare. The statute gives the Nursing Commission the authority to set the requirements and fees for a retired active license.

The statute's objectives the rule implements are:

1. Increasing the availability of nursing care.
2. Setting reduced renewal fees for retired active licensees (incorporated into separate rulemaking).
3. Allowing holders of retired active licenses to practice in an intermittent or emergent role.
4. Determining the requirements for holding a retired active license.

Section 3. What is the justification for the proposed rule package?

The proposed rule achieves the authorizing statute's goals and objectives because it increases the availability of competent health care in Washington State. Nurses will be able to practice in intermittent situations to provide care as parish, school, or volunteer nurses. These nurses will also be able to serve in emergency situations, which benefit the citizens of the state. The proposed rule allows registered nurses and licensed practical nurses to complete fewer practice hours than with active status, while still requiring the same number of continuing education hours. This allows registered nurses and licensed practical nurses with a retired active license to retain enough knowledge to provide competent care, while not practicing at the same level as active license holders.

If this rule is not adopted, the large number of nurses aged 60 or older who are retired or preparing to retire may be unable to meet the requirements for active status. Consequently, Washington State will have fewer readily available health care providers during intermittent and emergent situations.

Section 4. What are the costs and benefits of each rule included in the rules package? What is the total probable cost and total probable benefit of the rule package?

There is one rule in this proposal, WAC 246-840-125. The rule provides the requirements for registered nurses and licensed practical nurses to hold a retired active license. The rule allows these license holders to continue practicing in intermittent and emergent situations.

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Proposed WAC 246-840-125 allows registered nurses and licensed practical nurses to apply for a retired active license status. The requirements for the retired active status license are less than an active status to allow retired nurses to continue practicing in intermittent and emergent situations.

As part of the license, registered nurses and licensed practical nurses may not work full time and will need to place their licenses back into active status if they wish to practice in settings such as acute care skilled nursing facilities.

By allowing a retired active status, there will be a greater availability of knowledgeable health care providers in emergency situations. This rule allows citizens, especially those living in rural areas, to have increased availability to health care providers.

Rule Cost/Benefit Analysis

Costs:

- Continuing education cost
- Renewal fee
- Practice hours

For renewal of a retired active license the rule requires 45 hours of continuing education. The cost of continuing education for nurses ranges from \$0-\$500 per hour. The rule also requires nurses to fulfill 96 practice hours every three years. The Nursing Commission evaluated how many practice hours nurses should complete to retain their skills and elected to set the practice hour requirement at 96, which equates to 8 hours of practice per month over the course of one year. Practice hours can be compensated, or nurses can fulfill these hours by volunteering their time. Renewal fees are less than half of active status fees and are being set through separate rulemaking that consolidates all fee updates.

Benefits:

- Ability to continue practicing in nursing
- Larger availability of quickly activated emergency health care providers
- Continuing competency requirements are attainable with decrease in practice hours

The proposed rule increases patient health in Washington State by providing for a greater availability of health care providers. Allowing nurses to practice on an intermittent or emergent basis creates more nurses available when needed. The decreased amount of continuing competency practice hours allow retired nurses to continue meeting licensing requirements and continuing to serve their communities. Nurses who will soon be retiring have a predictable pathway to continue practicing. Patients can be assured of their healthcare providers' competency because there are continuing competency requirements and minimum practice standards.

Rule Package Cost-Benefit Conclusion

Although there are costs for nurses who elect to obtain a required active status as described above, these costs are justified because it ensures nurses retain the skills needed to safely serve the residents of Washington. The benefit of the rule is that retired nurses can stay in the field and are available to serve in intermittent and emergent situations. Thus, the total probable benefits of the expanded access to care outweigh the total probable costs.

Section 5. What alternative versions of the rule were considered? Is the proposed rule the least burdensome approach?

Descriptions of alternatives considered

An alternative to the proposed rule was amending the existing inactive status rule. This alternative was rejected by the Nursing Commission because it would not allow those in inactive status to be reactivated quickly in an emergency situation. Also, the renewal fee for inactive status is higher than the proposed retired active renewal fee.

An alternative considered to the proposed rule reduced the number of continuing education hours required. This alternative was rejected by the Nursing Commission because it does not protect the public by ensuring the knowledge of health care providers. The Nursing Commission determined that 45 hours of continuing education is not overly burdensome for applicants.

Least burdensome determination

The proposed rule is the least burdensome to complete the authorizing statute's goal for increasing availability of health care and increasing the health of citizens. The Nursing Commission determined that the level of education and continuing competency hours would create the least burden for renewal but still provide the greatest protection to the public. As a part of separate rulemaking, the Nursing Commission identified an appropriate reduced fee for retired active status.

Section 6. Does the rule require anyone to take an action that violates another federal or state law?

The rule does not require those to whom it applies to take an action that violates requirements of federal or state law.

Section 7. Does the rule impose more stringent performance requirements on private entities than on public entities, unless the difference is required in federal or state law?

The Nursing Commission determined that the rule does not impose more stringent performance requirements on private entities than on public entities.

Section 8. Does the rule differ from any federal regulation or statute applicable to the same activity or subject matter and, if so, is the difference justified by an explicit state statute or by substantial evidence that the difference is necessary?

The rule does not differ from any applicable federal regulation or statute.

Section 9. Has the rule been coordinated, to the maximum extent possible, with other federal, state, and local laws applicable to the same activity or subject matter?

There are no other applicable laws.